



FR Doc #04-7984
PUBLIC COMMENT 840059



Matthew A. Hughes, M.D., M.P.H.

Regional Medical Director, Western Hemisphere

BP America Inc.
215 Shuman Boulevard
Mail Code 3 East
Naperville, IL 60563-8458
USA

July 1, 2004

Walter F. Vogl, Ph.D.
Drug Testing Section
Division of Workplace Programs
SCAP
5600 Fishers Lane
Rockwell II, Suite 815
Rockville, MD 20857

Direct 630 848 5394
Fax 630 848 3777
Hughm7@bp.com

Reference: SAMHSA
Volume 69, number 71, federal register

Dear Dr. Vogl,

I am currently the Medical Director for BP in the Western Hemisphere, and previously was an associate Medical Director of another Fortune 50 company. I have been involved with hair testing for the past 4 years and can attest to the very positive aspects of hair testing vs. urine testing. I have personally been involved in all of the aspects of instituting hair testing including policy making, administrative oversight, and as the MRO for thousands of hair tests.

I would like to make a few comments on hair testing as it relates to the proposed rulemaking for Federal Workplace Drug Testing. Specifically, in reference to Subpart E- Collection Sites, SAMHSA has recommended that hair testing be restricted to hair collected from the head. It is my strong opinion that instituting a practice of limiting collections to head hair only is fatally flawed, and will result in sexual discrimination and continued detection avoiding behaviors.

By restricting collections to head hair only, a strong discriminatory practice will be created towards women, who most often have enough scalp hair vs. males who exhibit male pattern baldness or who closely shave off their scalp hair for aesthetic or detection avoidance practices. To eliminate the ability of a collector to move to another source of body hair clearly makes it easy for males to shave their heads to avoid detection. Women theoretically could shave their scalps as well, but socially it is not reasonable to believe that this will occur with as great of frequency as in males. Thus, the proportionate number of substance using females will be detected at a higher frequency than males if using hair testing subject to head hair alone.

Pertaining to collections of body hair, there are multiple sites where body hair can be collected that do not result in invasion of privacy. There is little invasion of privacy in shaving some hair from an exposed limb in either sex. Further, asking a male to remove his shirt or rolling it up to expose the axilla to obtain a collection of underarm hair does not seem to be a major invasion of privacy. Certainly any attempt to collect hair from the pubic area or chest of a woman should not be allowed. Hair collection should also not be allowed from eyebrows or eyelashes.

In my experience, it is not uncommon that an individual will shave every hair from their body if there is fore-knowledge of an impending hair test (pre-employment). For these scenarios, SAMHSA should recognize this as a refusal to test, and in the absence of a medical reason for having no body hair, the donor should not be allowed to request another medium for testing.

Lastly, a split specimen for hair may not be necessary given the stability of the medium and the length of the testing window. It is reasonable to rather allow the donor to submit to a safety-net test, so long as the donor has not materially altered his or her hair from the time the MRO contacts the donor (haircut, dye, bleach, etc.). The safety net is a separate collection, and is run similar to urine split specimens looking for the presence of the drug without cutoff levels.

I support the recommended changes in Subpart K supporting automatic electronic reporting of concentration levels to the MRO.

Subpart P requests comments for rejecting specimens for testing. A hair test should be rejected if it is substituted (wig, animal hair, another persons hair) or obviously altered with chemicals designed to destroy the hair medulla. A provision for genetic matching of sample to donor in the case of uncertainty should be considered. This scenario will come up if a person is sent in for a safety-net test, and the lab receives a different color or hair than the first collection (i.e. the first sample is from a dark haired individual and the safety-net sample is of different color and diameter).

I support testing for MDMA, as use of this substance is far more prevalent than PCP.

Thank you for considering these comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew Hughes" with a stylized flourish at the end.

Matthew Hughes, MD, MPH
Medical Director Western Hemisphere